



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/547,220	04/11/2000	Michael Brines	10165-006-999	4714

20583 7590 09/22/2004

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

EXAMINER

DEBERRY, REGINA M

ART UNIT	PAPER NUMBER
----------	--------------

1647

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
---------------------------------	-------------	---	---------------------

EXAMINER

ART UNIT	PAPER
----------	-------

20040915

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.


Commissioner for Patents

The amendment submitted 18 December 2002 was not entered because it raises new issues that would require further consideration and/or search. Newly submitted claims (claims 40-63) recite, "without a toxic increase in hemoglobin concentration or hematocrit" and "without an increase in hematocrit". The Examiner cannot discern from the specification the difference between "without a toxic increase in hematocrit" and "without an increase in hematocrit". Thus, the claims raise potential new matter and 112, second paragraph rejections.


Furthermore, the previous claims (claims 28-39) were found allowable (see previous Office Communication 02 December 2003). Due to a potential interference, ex parte prosecution is **SUSPENDED FOR A PERIOD OF 6 MONTHS** from the date of this letter. Upon expiration of the period of suspension, applicant should make an inquiry as to the status of the application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Regina M. DeBerry whose telephone number is (571) 272-0882. The examiner can normally be reached on 9:00 a.m.-6:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda G. Brumback can be reached on (571) 272-0961. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


RMD
9/16/04


JASEMINE C. CHAMBERS
DIRECTOR
TECHNOLOGY CENTER 1600


BRENDA BRUMBACK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600